

House File 831 - Introduced

HOUSE FILE 831

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 223)

A BILL FOR

1 An Act relating to the expungement of convictions for certain
2 nonviolent class "D" felonies, and related convictions,
3 and to the definition of a conviction relating to the
4 possession, receipt, and transportation of firearms,
5 offensive weapons, and ammunition.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.25, Code 2021, is amended to read as
2 follows:

3 **724.25 Felony, conviction, and antique firearm defined.**

4 1. As used in [section 724.26](#), the word "*felony*" means
5 any offense punishable in the jurisdiction where it occurred
6 by imprisonment for a term exceeding one year, but does not
7 include any offense, other than an offense involving a firearm
8 or explosive, classified as a misdemeanor under the laws of the
9 state and punishable by a term of imprisonment of two years or
10 less.

11 2. As used in [section 724.26](#), "*conviction*" does not include
12 any offense which has been expunged or for which a person
13 has been pardoned or has had the person's rights restored
14 in accordance with section 724.27 unless such expungement,
15 pardon, or restoration expressly provides that the person shall
16 not ship, transport, possess, or receive firearms, offensive
17 weapons, or ammunition.

18 ~~2.~~ 3. As used in [this chapter](#), an "*antique firearm*"
19 means any firearm, including any firearm with a matchlock,
20 flintlock, percussion cap, or similar type of ignition system,
21 manufactured in or before 1898. An antique firearm also
22 means a replica of a firearm so described if the replica is
23 not designed or redesigned for using rimfire or conventional
24 centerfire fixed ammunition or if the replica uses rimfire or
25 conventional centerfire fixed ammunition which is no longer
26 manufactured in the United States and which is not readily
27 available in the ordinary channels of commercial trade.

28 Sec. 2. NEW SECTION. 901C.4 Nonviolent class "D" felony —
29 expungement.

30 1. Upon application of a defendant convicted of a nonviolent
31 class "D" felony offense filed in the county where the
32 conviction occurred, the court shall enter an order expunging
33 the record of such a criminal case if the defendant has proven
34 all of the following:

35 a. More than ten years have passed since the discharge of

1 the defendant's sentence.

2 *b.* All conditions of the defendant's parole or probation
3 have been satisfied.

4 *c.* The defendant has paid all court costs, fees, fines,
5 restitution, and any other financial obligations ordered by the
6 court or assessed by the clerk of the district court.

7 *d.* The defendant has not previously been granted a deferred
8 judgment for a prior felony.

9 *e.* The defendant has not been convicted of or received a
10 deferred judgment for a felony offense committed subsequent to
11 the conviction for which the defendant is seeking expungement.

12 *f.* The defendant has not been convicted of or received
13 a deferred judgment for a misdemeanor offense of violence
14 committed subsequent to the conviction for which the defendant
15 is seeking expungement.

16 *g.* The defendant is not currently incarcerated or serving a
17 period of probation for any criminal offense, and the defendant
18 has no pending criminal charges.

19 *h.* The defendant is not required to register as a sex
20 offender under chapter 692A.

21 2. The following class "D" felonies shall not be expunged:

22 *a.* A conviction for assault under section 708.2, subsection
23 4.

24 *b.* A conviction of domestic abuse assault under section
25 708.2A, subsection 4 or 5.

26 *c.* A conviction for assault in violation of individual
27 rights under section 708.2C, subsection 2 or 4.

28 *d.* A conviction for assault while participating in a felony
29 under section 708.3, subsection 2.

30 *e.* A conviction for an assault on persons engaged in certain
31 occupations under section 708.3A, subsection 1 or 2.

32 *f.* A conviction for inmate assault under section 708.3B.

33 *g.* A conviction for willful injury under section 708.4,
34 subsection 2.

35 *h.* A conviction for administering harmful substances under

1 section 708.5.

2 *i.* A conviction for intimidation with a dangerous weapon
3 under section 708.6, subsection 2.

4 *j.* A conviction for going armed with intent under section
5 708.8.

6 *k.* A conviction for stalking under section 708.11,
7 subsection 3, paragraph "b".

8 *l.* A conviction for removal of an officer's communication or
9 control device under section 708.12, subsection 3, paragraph
10 "f".

11 *m.* A conviction for disarming a peace officer of a dangerous
12 weapon under section 708.13, subsection 2.

13 *n.* A conviction for female genital mutilation under section
14 708.16, subsection 1 or 4.

15 *o.* A conviction for threat of terrorism under section
16 708A.5.

17 *p.* A conviction for lascivious acts with a child under
18 section 709.8, subsection 1, paragraph "d" or "e".

19 *q.* A conviction for assault with intent to commit sexual
20 abuse under section 709.11, subsection 2.

21 *r.* A conviction for sexual exploitation by a counselor,
22 therapist, or school employee under section 709.15, subsection
23 4, paragraph "a", or under section 709.15, subsection 5,
24 paragraph "a".

25 *s.* A conviction for human trafficking under section 710A.2.

26 *t.* A conviction for aggravated theft under section 711.3B,
27 subsection 2, paragraph "b".

28 *u.* A conviction for threats to place or attempts to place
29 any incendiary or explosive device or destructive substance
30 under section 712.8.

31 *v.* A conviction under prior law of an offense comparable to
32 an offense listed in this subsection.

33 3. The county attorney for the county in which the
34 conviction was entered shall be given notice of the
35 application, and an order of expungement shall not be entered

1 until the state has been given notice and the opportunity to
2 object on the grounds that the applicant does not satisfy all
3 of the conditions in subsection 1.

4 4. a. A person shall be granted an expungement of a record
5 under this section one time in the person's lifetime. However,
6 the one application may request the expungement of records
7 relating to more than one conviction if all of the following
8 conditions apply:

9 (1) The application contains the nonviolent class "D"
10 felony offense.

11 (2) The convictions arose from the same transaction or
12 occurrence.

13 (3) The conviction is for a criminal offense that is
14 eligible to be expunged under either this section or section
15 901C.3.

16 b. The expungement of a misdemeanor conviction under this
17 subsection shall not be considered an expungement under section
18 901C.3, subsection 3.

19 5. No order of expungement shall be entered until at least
20 thirty days after an application has been filed.

21 6. The expunged record under this section is a confidential
22 record exempt from public access under section 22.7 but shall
23 be made available by the clerk of the district court upon court
24 order.

25 7. Notwithstanding section 692.2, after receipt of
26 notice from the clerk of the district court that a record of
27 conviction has been expunged under subsection 1, the record
28 of conviction shall be removed from the criminal history data
29 files maintained by the department of public safety if such a
30 record was maintained in the criminal history data files.

31 8. The supreme court may prescribe rules governing the
32 procedures applicable to the expungement of a criminal case
33 under this section.

34 9. This section applies to a nonviolent class "D" felony
35 conviction that occurred prior to, on, or after July 1, 2021.

1

EXPLANATION

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The inclusion of this explanation does not constitute agreement with
the explanation's substance by the members of the general assembly.

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4 This bill relates to the expungement of convictions for
5 certain nonviolent class "D" felonies and to the definition
6 of a conviction relating to the possession, receipt, and
7 transportation of firearms, offensive weapons, and ammunition.

8 The bill provides that, for the purposes of Code section
9 724.26 (possession, receipt, transportation, or dominion and
10 control of firearms, offensive weapons, and ammunition by
11 felons and others), a conviction does not include any offense
12 which has been expunged or for which a person has been pardoned
13 or has had the person's rights restored in accordance with Code
14 section 724.27 (restoration of offenders' rights) unless such
15 expungement, pardon, or restoration expressly provides that the
16 person shall not ship, transport, possess, or receive firearms,
17 offensive weapons, or ammunition.

18 The bill provides that upon application of a defendant
19 convicted of a nonviolent class "D" felony offense filed in the
20 county where the conviction occurred, the court shall enter
21 an order expunging the record of such a criminal case if the
22 defendant has proven all of the following: more than 10 years
23 have passed since the discharge of the defendant's sentence;
24 all conditions of the defendant's parole or probation have
25 been satisfied; all court costs, fees, fines, restitution,
26 and any other financial obligations have been paid by the
27 defendant; the defendant has not previously been granted a
28 deferred judgment for a prior felony; the defendant has not
29 been convicted of or received a deferred judgment for a felony
30 offense committed subsequent to the conviction for which the
31 defendant is seeking expungement; the defendant has not been
32 convicted of or received a deferred judgment for a misdemeanor
33 offense of violence committed subsequent to the conviction for
34 which the defendant is seeking expungement; the defendant is
35 not currently incarcerated or serving a period of probation for

1 any criminal offense and has no pending criminal charges; and
 2 the defendant is not required to register as a sex offender
 3 under Code chapter 692A.

4 The bill provides that a conviction of the following class
 5 "D" felonies are not eligible for expungement: assault under
 6 Code section 708.2(4); domestic abuse assault under Code
 7 section 708.2A(4) or (5); assault in violation of individual
 8 rights under Code section 708.2C(2) or (4); assault while
 9 participating in a felony under Code section 708.3(2); assault
 10 on persons engaged in certain occupations under Code section
 11 708.3A(1) or (2); inmate assault under Code section 708.3B;
 12 willful injury under Code section 708.4(2); administering
 13 harmful substances under Code section 708.5; intimidation with
 14 a dangerous weapon under Code section 708.6(2); going armed
 15 with intent under Code section 708.8; stalking under Code
 16 section 708.11(3)(b); removal of an officer's communication
 17 or control device under Code section 708.12(3)(f); disarming
 18 a peace officer of a dangerous weapon under Code section
 19 708.13(2); female genital mutilation under Code section
 20 708.16(1) or (4); threat of terrorism under Code section
 21 708A.5; lascivious acts with a child under Code section
 22 709.8(1)(a) or (e); assault with intent to commit sexual
 23 abuse under Code section 709.11(2); sexual exploitation by a
 24 counselor, therapist, or school employee under Code section
 25 709.15(4)(a) or (5)(a); human trafficking under Code section
 26 710A.2; aggravated theft under Code section 711.3B(2); and
 27 certain threats under Code section 712.8.

28 The bill provides that the county attorney for the county in
 29 which the conviction was entered shall be given notice of the
 30 application, and an order of expungement shall not be entered
 31 until the state has been given notice and the opportunity to
 32 object on the grounds that the applicant does not satisfy
 33 all of the conditions specified in the bill, and no order of
 34 expungement shall be entered until at least 30 days after the
 35 application has been filed.

1 The bill provides that a person shall be granted an
2 expungement of a record one time in the person's lifetime.
3 However, the one application may request the expungement of
4 records relating to more than one conviction if all of the
5 following conditions apply: the application contains the
6 nonviolent class "D" felony offense, the convictions arose
7 from the same transaction or occurrence, and the conviction is
8 for a criminal offense that is eligible to be expunged under
9 the bill or Code section 901C.3. The bill provides that an
10 expungement of a misdemeanor conviction under the bill shall
11 not be considered an expungement under Code section 901C.3(3)
12 which allows for an expungement once in a person's lifetime of
13 certain misdemeanor convictions under certain circumstances.

14 The bill provides that the expunged record is a confidential
15 record exempt from public access but shall be made available
16 by the clerk of the district court upon court order. After
17 receipt of notice from the clerk of the district court that
18 a record of conviction has been expunged, the record of
19 conviction shall be removed from the criminal history data
20 files maintained by the department of public safety if such a
21 record was maintained in the criminal history data files.

22 The bill provides that the supreme court may prescribe rules
23 governing the procedures applicable to the expungement of a
24 criminal case under this Code section. The bill applies to a
25 nonviolent class "D" felony conviction that occurred prior to,
26 on, or after July 1, 2021.